



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Tucson Field Office  
3201 E. Universal Way  
Tucson, AZ 85756



August 1, 2013

In Reply Refer To:  
4160 (AZG020)  
Allotment No. 52400

CERTIFIED MAIL - RETURN RECEIPT REQUESTED No.

AARON IACOBUCCI  
4200 CANOAS DR  
AUSTIN, TX 78730

## NOTICE OF PROPOSED DECISION

Dear Mr. Iacobucci:

### INTRODUCTION:

The Bureau of Land Management (BLM) is charged with evaluating public lands on an allotment basis, in accordance with the current regulations, to determine if the rangelands are meeting the Arizona Standards for Rangeland Health. The information analyzed in the Rangeland Health Assessment (RHA) was used to determine if Standards for rangeland health on the Susnow allotment are being achieved. The assessment also serves to document when standards are not achieved in the assessment area. The authorized officer will then determine significant causal factors for non-achievement. Existing grazing management practices or levels of grazing use on public land are reviewed to determine the significant factors, in order to identify the appropriate action or actions to be developed and implemented in accordance with 43 CFR subpart 4180.2(c).

The need for this action is to offer this grazing lease with terms and conditions for grazing use that would achieve, or make significant progress toward achievement of Land Health Standards, Resource Management Plan and other pertinent multiple-use objectives for the allotment.

### BACKGROUND:

The Secretary of the Interior approved Arizona's Standards for Rangeland Health (Land Health Standards) and Guidelines for Grazing Administration (Guidelines) in April 1997. The Decision Record, signed by the BLM State Director (April 1997) provides for full implementation of the Standards and Guides in Arizona BLM Land Use Plans.

A Rangeland Health Evaluation was completed on the allotment on May 21st 2008, and a second evaluation was conducted on December 7th 2011. Additional vegetation monitoring was conducted on July 7, 2009 by BLM staff and the University of Arizona Cooperative Extension. An interdisciplinary team reviewed the best available data and planning documents to determine if any new information, issues or unresolved conflicts exist that should be considered in the evaluation and the NEPA analysis. The Rangeland Health Assessment concluded that the existing resource conditions encountered on the Susnow allotment achieve Arizona's Standards for Rangeland Health, and current management of the livestock is appropriate under Arizona's Guidelines for Grazing Administration.

An interdisciplinary team prepared an Environmental Assessment (EA) using the environmental analysis from the evaluation and vegetation monitoring to assess the impacts of renewing the grazing lease. On June 7, 2013 the EA was posted on BLM's NEPA ePlanning site and you and interested publics were informed about the 30 day comment period.

#### PROPOSED DECISION:

Based upon the Rangeland Health Evaluation, results of NEPA Analysis and recommendations from the interdisciplinary assessment team, my proposed decision for grazing lease is as follows:

Allotment Number	Allotment Name	Pasture	Number of Livestock	Kind	Begin	End	% Public Land	Type of Use	AUMs
52400	Susnow	Upland	2	Cattle	3/1	2/28 (year-long)	100	ACTIVE	24

#### Terms and Conditions:

1. If, in connection with allotment operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the lessee shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the Authorized Officer of the discovery. The lessee shall continue to protect the immediate area of the discovery until notified by the Authorized Officer that operations may resume.
2. Actual use information will be submitted within 15 days of the end of the grazing year in accordance with 43 CFR 4130.3-2(d). Actual use reports will identify the amount of livestock use and period of use for each water source/pasture.

3. Lessee shall not subject jaguars or ocelots to any predator control activities.
4. Agave will be surveyed for and avoided during construction of any range improvement projects.
5. Construction of range improvement projects will not occur during the nesting season of migratory birds.
6. All new fence lines will be constructed to BLM wildlife friendly fence standards.
7. All watering troughs will be equipped with wildlife escape ramps.

In addition, see Attachment 1 for the Standard Terms and Conditions that apply to BLM grazing leases.

**RATIONALE:**

The Public lands on the Susnow allotment are designated as available for livestock grazing through the Safford District Resource Management Plan, which adopted the Eastern Arizona Grazing Environmental Impact Statement. Rangeland health assessments, monitoring, and the evaluation report completed for the Susnow Allotment identified that Standards 1 and 3 are being met (Standard 2 is not applicable). Offering this 10-year grazing lease is in conformance with the Safford District Resource Management Plan (RMP) and EIS (1991).

**AUTHORITY:** The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including, but not limited to the following pertinent parts:

§ 4100.0-8 “The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans... Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b)”.

§4110.3 “The authorized officer shall periodically review the permitted use specified in a grazing permit or grazing lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer”.

§4110.3-2(b) “When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization or, when use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable

methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices”.

§4110.3-3(a) “After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §§4110.3-2 shall be issued as proposed decisions pursuant to 4160.1 of this part, except as provided in paragraph (b) of this section”.

§4130.2(b) “The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases”.

§4130.3 “Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part”.

§4130.3-1(a) “The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.”

§4130.3-1(c) “Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part”.

§4130.3-2 “The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to: ... (d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made; ... (f) Provisions for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants ... of for the protection of other rangeland resources and values consistent with objectives of applicable land use plans, ... .”

§4130.3-3 “Following consultation, cooperation and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active grazing use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part. To the extent practical, the authorized officer shall provide to affected

permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease”.

§4160.2 “Any applicant, permittee, lessee or other interested public may protest the proposed decision under §4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision”.

§4180.2(c) “The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform to the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to 4110, 4120, 4130, and 4160 that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with guidelines”.

#### PROTESTS:

If you wish to protest this proposed decision in accordance with 43 CFR 4160.2, you are allowed 15 days from receipt of the proposed decision to send your reasons in writing (e-mails through the Internet will not be accepted) to the Tucson Field Manager at 3201 E. Universal Way, Tucson, Arizona 85756. Subsequent to the protest period, a final decision will be issued.

In the absence of a protest, the proposed decision will become a final decision of the authorized officer without further notice. Electronic pleading and appeals are not acceptable methods for filing.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal and petition for stay of the final decision pending final determination on appeal under 43 CFR 4160.4, 4.21 and 4.470. **The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the final decision, or 30 days after the proposed decision becomes final.** The appellant must also serve a copy of the notice of appeal to each person named in the decision from which the appeal is taken and the U.S. Department of the Interior, Office of the Field Solicitor, Sandra D. O'Connor United States Courthouse, Suite 404, 401 West Washington Street SPC 44, Phoenix, Arizona 85003-2151.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error.

Should you wish to file a motion for stay, the appellant shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;

- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer.

Sincerely,

/s/David Baker

David Baker  
Field Manager

CC: Affected Interests

## Attachment 1 – Standard Terms and Conditions

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.
2. They are subject to cancellation, in whole or in part, at any time because of:
  - a. Noncompliance by the permittee/lessee with rules and regulations.
  - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
  - c. A transfer of grazing preference by the permittee/lessee to another party.
  - d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described.
  - e. Repeated willful unauthorized grazing use.
  - f. Loss of qualifications to hold a permit or lease.
1. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans **MUST** be incorporated in permits or leases when completed.
4. Those holding permits or leases **MUST** own or control and be responsible for the management of livestock authorized to graze.
5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.
6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.
8. Livestock grazing use that is different from that authorized by a permit or lease **MUST** be applied for prior to the grazing period and **MUST** be filed with and approved by the authorized officer before grazing use can be made.
9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
10. Grazing fee payments are due on the date specified on the billing notice and **MUST** be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of \$25 or 10 percent of the amount owed but not more than \$250) will be assessed.

11. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election of appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App.1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise there from; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.